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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/724,306	11/28/2003	Harv Lillegard	LH0-3039-U	2973

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EXAMINER

KEENAN, JAMES W

ART UNIT PAPER NUMBER

3652

DATE MAILED: 09/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/724,306

Applicant(s)

LILLEGARD, HARV

Examiner

James Keenan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 July 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-42 is/are pending in the application.
- 4a) Of the above claim(s) 1-7 and 35-40 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 8-34, 41 and 42 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

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1. Applicant's election without traverse of Group II (claims 8-34 and 41-42) in the reply filed on 7/25/05 is acknowledged. It is noted that claims 41-42, which depend from claim 8, were incorrectly included in Group I.

2. Claims 1-7 and 35-40 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 7/25/05.

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 8-34 and 41-42 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

A portion of claim 8 appears to be missing in the transition from page 17 to page 18.

In claim 10, "said caging features" lacks antecedent basis.

In claim 12, "herein" should be ~~wherein~~.

In claim 13, the informal correction should be presented as a proper formal amendment.

In claim 27, "if" should be ~~is~~.

In claim 28, "said caging structure" lacks antecedent basis.

In claim 31, line 7, "support" should be --said--.

In claim 34, "an" should be --a--.

In claim 41, "eighty" should be --eighth--.

In claim 42, "said ... roller" and "said rollers" lack antecedent basis.

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 8-10, 12, 13, 19, 20, 28, and 30 are rejected under 35 U.S.C. 102(b) as being anticipated by Jasinski (US 4,592,536).

Jasinski shows support apparatus 28 for traversing along beam 21, comprising downwardly extending flanges 34 integrally provided with first and second roller mounts, rollers 36 attached to the roller mounts through bearings 38, and base 32 extending between the roller mounts, such that the apparatus can traverse along the beam while supporting a load on the base.

7. Claims 8, 10-14, 19, 20, 23, 28, and 30 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Desroches (US 4,805,537).

8. Claims 8-10, 12, 13, 19, 20, 28, and 30 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Barrett (US 4,877,206).

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9. Claims 8, 10, 12, 13, 19, 20, 28, and 30 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Frantz (US 3,318,467).

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 14-18, 21, 22, 24-27, 29, 41, and 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jasinski.

Re claims 14-16, 21, and 22, Jasinski does not disclose the material of which the rollers are made. Nevertheless, it would have been obvious for one of ordinary skill in the art at the time of the invention to have constructed the rollers from plastic, including ultra-high molecular weight recycled polyethylene, as this would simply be the use of a common low friction material, the use of which would neither require undue experimentation nor produce unexpected results, particularly absent any showing of criticality.

Re claim 18, the use of ball bearings is considered an obvious design choice.

Re claims 24-27, 29, 41, and 42, Jasinski is silent regarding the size of the rollers. Nevertheless, it would have been obvious for one of ordinary skill in the art at the time of the invention to have constructed the rollers in the size range indicated;

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since it has been held that where the general conditions of a claim are disclosed, discovering an optimum range involves only routine skill in the art.

12. Claims 31-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Barrett.

Although Barrett shows the apparatus to include complementary nuts and bolts 37, 38, 43 for fastening the roller mounts to the base through corresponding apertures provided therein, the details of this arrangement are somewhat different than that set forth in the claims. Nevertheless, it would have been an obvious matter of design choice for one of ordinary skill in the art at the time of the invention to have modified the apparatus of Barrett with the exact constructional details of claims 31-33, since applicant has not disclosed that this solves any problem or is for any particular purpose.

Re claim 34, the addition of a cargo stop is considered a further design expediency to provide better control of the load, particularly since no functionality of such a device is set forth, and further since no particular cargo is a requirement of the claims.

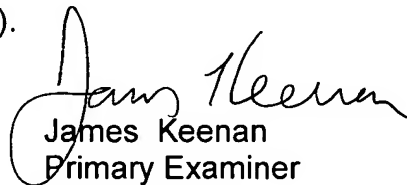
13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to James Keenan whose telephone number is 571-272-6925. The examiner can normally be reached on (schedule varies).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eillen Lillis can be reached on 571-272-6928. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


James Keenan
Primary Examiner
Art Unit 3652

jwk
9/7/05